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DEPARTMENT OF LABOR AND EMPLOYMENT
WORKFORCE DEVELOPMENT PROGRAMS

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April 1, 2004

Joseph C. Juarez
Regional Administrator
Employment and Training Administration
5252 Griffin Street, Room 317
Dallas, TX 75202

Dear Mr. Juarez:

Enclosed is the State of Colorado's request for a waiver under the Workforce Investment Act, Section 134 - Use of Funds for Employment and Training Activities, for PY03, PY04, and PY05. We have addressed sections 20 CFR 661.420 (c) and 189(i)(4) of the Workforce Investment Act- General Waivers of Statutory or Regulatory Requirements. The Training and Employment Guidance Letter referencing the development and submission of a request for the waiver of WIA was also followed.

The waiver request is being submitted concurrently with the 30-day comment period required in the regulations. Subsequent to the comment period, the State will provide copies of all comments received.

If you have further questions, please contact Nina Holland at 303.318.8806.

Sincerely,

Jeffrey M. Wells
Executive Director

Cc: Jovita Martinez
Booker Graves
Thomas J. Loof
Elise Lowe-Vaughn
Nina Holland

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**STATE OF COLORADO
WAIVER REQUEST
WORKFORCE INVESTMENT ACT**

Restriction on Use of WIA 25% Funds for Administrative Costs

The Colorado Department of Labor and Employment (CDLE), the administrative entity for the Workforce Investment Act (WIA), is requesting a waiver of the legal requirement that limits use of WIA 25% Rapid Response funds to the program cost category. Granting of the waiver would allow local Boards receiving Rapid Response funds to charge up to 10% of expenditures to the administrative cost category for PY03, PY04, and PY05. Should the waiver be granted, CDLE will be able to ensure that the critical workforce needs of local communities are being met.

This waiver request follows the format identified in WIA Section 189(i)(4)(B) (29 USCA Section 2939(i)(4)(B)) and WIA Final Regulations at 20 CFR Section 661.420(c).

1. Statutory Regulations to be Waived: WIA Section 134(a) (29 USCA Section 2963(b)(4)) and WIA Final Regulations at 20 CFR Section 667.210, provide that as part of the 15% that a State may reserve for Statewide activities, the State may spend up to 5% of the amounts allotted for Adult, Youth, and Dislocated Worker programs for administrative costs. In addition, WIA Section 134(a) sets the ground rules for use of the 25% Rapid Response set aside. The US Department of Labor has interpreted these statutes to mean that the Rapid Response funding stream is separate and apart from Administrative funding, and therefore should be utilized solely for programmatic costs.

Colorado's structure for the WIA consists of the Office of Workforce Development (OWD) and the State Workforce Development Council (SWDC), which perform policy functions, and the Colorado Department of Labor and Employment, which is responsible for providing the administrative and fiscal management systems for program implementation. The planning and delivery of services is performed at the local level, embodying the Colorado tradition of local control. A strong state and local partnership has resulted in the achievement of all 17 WIA performance measures for PY00, PY01, and PY02.

During PY01 and PY02 the number of Dislocated Worker and Adult enrollments more than doubled compared with PY00, owing to the general downturn in the economy and the aftermath of 9/11. Colorado has continued to experience high unemployment, loss of jobs, and large layoffs despite national trends toward economic recovery. The following chart, prepared by CDLE's Labor Market Information section, provides evidence of Colorado's lagging economy:

Current Labor Statistics
Unemployment Rate (SA)
Colorado: **5.8%** (12/03)
USA: **5.7%** (12/03)
Colorado Job Growth (SA)
Nov. - Dec.: **-2,600**
Dec. 2002 - Dec. 2003: **-19,500**

In addition, CDLE's Rapid Response Unit reports that it has provided layoff services to 146 employers impacting 11,669 workers for the calendar year 2003. This continuing demand for services, coupled with the termination of the NEG grant as of June 30, 2004, signals an even greater need for flexibility in local program and fiscal planning.

To expand services to employers and employees hardest hit by the Colorado's stalled economic recovery, the State has designated a portion of its PY03 and PY04 25% funds for discretionary grants. These grants can be utilized by local Boards to serve targeted groups of dislocated workers or engage in layoff aversion initiatives for incumbent workers. However, each region applying for a grant must identify non-Rapid Response funds to pay for administrative costs associated with implementation of the project, thus placing a heavier burden on resources allocated to support formula grant activities.

2. State or Local Statutory Regulatory Barriers: There are no state or local statutory or regulatory barriers to implementing the proposed waiver. State Workforce Development Board and CDLE policies are in compliance with current Federal guidelines. Upon notification of approval of this waiver request, CDLE policy will be amended to comply with the terms of the waiver.

3. Goals to be Achieved by the Waiver:

- Improve the ability of local Boards to respond to changes within their local areas;
- Increase local control for program delivery;
- Increase employer/board collaboration to address industry needs and worker training;
- Increase accountability of local service providers;
- Provide greater flexibility to local Boards in designing and implementing WIA programs.

4. Programmatic Outcomes to be Achieved by the Waiver: Some of the larger local regions have exercised the option to apply for the 25% discretionary grants. However, the lack of administrative funds for these grants has made it extremely difficult for smaller regions to take advantage of fund availability. Having the option to use 25% discretionary funds for administrative costs will help promote the development of projects statewide to improve job retention and avoid additional layoffs.

The role of local Boards is to plan, oversee, and evaluate the delivery of workforce training and services delivered by their local One-Stop centers. Boards need to be encouraged to design innovative programs unique to local needs and priorities. Such customized programs result in increased local and service provider accountability. CDLE, OWD, and the State Workforce Development Council support the local Boards in these efforts by providing continued technical assistance and oversight. The granting of the waiver will allow Colorado to continue to meet its goal of "building a skilled, internationally competitive workforce for the new century."

5. Individuals Impacted by the Waiver: This waiver will benefit local Boards, One-Stop Centers, employers, customers, and service providers. The following are expected to be additional impacts of the proposed waiver:

- Program participants will benefit because local Boards will have added flexibility to design programs based on local needs and priorities.

- More customers will have access to core, intensive, and training services.
- Boards will be able to target more resources to layoff aversion activities.

6. Process Used to Monitor Progress in Implementing the Waiver: CDLE has a Federally recognized monitoring and performance accountability system that measures and evaluates results for job seekers and employers accessing Colorado's network of One-Stop centers. On a monthly and quarterly basis, CDLE reviews and analyzes client enrollment and service levels, program expenditures, and performance outcomes. In addition, State program monitors conduct onsite quarterly technical assistance reviews designed to assure that contract requirements are being met for all WIA programs. On an annual basis, comprehensive compliance monitoring is conducted onsite utilizing outcome reports generated from CDLE's statewide database. Should this waiver request be granted, CDLE will ensure regular review of the Rapid Response Discretionary Grant initiatives to monitor outcomes and impacts.

7. Process for Notice of Local Boards and Opportunity to Comment: CDLE actively sought the input of local Boards as a part of the development of the waiver request. Over a period of several months, CDLE met with local directors to review their program needs, and received unanimous support for the submission of this waiver. Once the waiver document is finalized, it will be published for 30 days, beginning April 5 and ending May 3, 2004, on the public web site maintained by the Office of Workforce Development, allowing for public comment on its content and potential impact. In addition, a copy of the waiver will be available for public inspection at CDLE offices, and electronic copies of the waiver will be sent via e-mail to local Boards and workforce centers. Comments received will be provided shortly after May 3rd.